

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:23-cv-00106-MR

FRANK I. HALL,)
Plaintiff,)
vs.)
BRADLEY DAVIDSON, et al.,)
Defendants.)

ORDER

THIS MATTER is before the Court on Plaintiff's "Motion Request for Order Appointing U.S. Marshal to Serve Ordered Subpoena." [Doc. 79].

Pro se Plaintiff Frank I. Hall (“Plaintiff”) is a prisoner of the State of North Carolina currently incarcerated at Alexander Correctional Institution in Taylorsville, North Carolina. On February 21, 2023, Plaintiff filed this action pursuant to 42 U.S.C. § 1983. [Doc. 1]. After amending his Complaint, Plaintiff’s Fourth Amendment individual capacity excessive force claims against Defendants Bradley Davidson, Talmadge Legrand, and Cuong Phan, Wadesboro Police Department Officers; and Defendant Jonathan Williams with the Anson County Sheriff’s Office, passed initial review. [Docs. 15, 16; see Docs. 19, 25]. Plaintiff alleges that Defendants shot him in the

back and buttocks while he was lying face down in the street surrendering.¹ [Doc. 15 at 5]. On August 14, 2023, the Court entered its Pretrial Order and Case Management Plan (PTOCMP). [Doc. 27]. On Plaintiff's motion, the Court extended the discovery deadline in this case to February 6, 2024, and sua sponte extended the dispositive motions deadline to March 7, 2024. [Doc. 39; 12/5/2023 Text Order].

On December 20, 2023, the Court granted Plaintiff's motion for the Court to order the U.S. Marshal to serve a Subpoena on Betty Huntley of the Wadesboro Housing Authority. [Docs. 41, 53]. In the Subpoena, Plaintiff sought video surveillance footage from cameras at the Myrtlewood Apartments in Wadesboro, North Carolina, that may have captured the incident at issue. [Doc. 41 at 7-9]. The U.S. Marshal obtained service of the Subpoena on Ms. Huntley in person on January 19, 2024, and returned Proof of Service to the Clerk on January 24, 2024. [Doc. 67 at 2]. On March 6, 2024, Defendants moved for summary judgment in this matter [Doc. 69] and, after an extension granted by the Court, the Plaintiff timely responded [Docs. 72, 75; 3/27/2024 Text Order]. Defendants' motion remains pending.

¹The parties recently filed a Joint Stipulation of Dismissal of Defendant Jonathan Williams. [Doc. 51]. As such, only Davidson, Legrand, and Phan remain as Defendants in this matter.

Now before the Court is Plaintiff's motion for an order "appointing the United States Marshal to serve process of a Subpoena on Betty Huntley." [Doc. 79]. Plaintiff mistakenly contends that the Subpoena to Betty Huntley "was never served." [Doc. 79]. The Court will deny Plaintiff's motion. The record in this matter plainly shows that the Subpoena was served on Ms. Huntley. Moreover, even if the U.S. Marshal had failed to serve the Subpoena, which it did not, the discovery period in this case has long expired and Plaintiff failed to timely compel compliance with the Subpoena.

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff's Motion Request for Order Appointing U.S. Marshal to Serve Ordered Subpoena [Doc. 79] is **DENIED**.

The Clerk is respectfully instructed to send Plaintiff a copy of the docket sheet in this matter.

IT IS SO ORDERED.

Signed: May 27, 2024



Martin Reidinger
Chief United States District Judge

